IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No. l6l3 of 1993

Yeshwant Ramchandra Chougule.. petitioner

vs

State of Mah and ors.. respondents

with

Writ Petition No.26l of l996

Yeshwant Ramchandra Chougule .. petitioner

vs

State of Mah and ors.. respondents

with

Writ Petition No.l033 of 200l

Yeshwant Ramchandra Chougule.. petitioner

vs

State of Mah and ors.. respondents

Mr.S.S.Pakale for petitioner

Mr R.M.Patne AGP for State

Mr. Vijay Patil for respondent no. 2

CORAM: A.P.SHAH &

S.U.KAMDAR JJ.

16th September, 2004

ORAL JUDGMENT: (Per A.P.Shah J.)

1. Heard Advocates.

2. These petitions are filed by the petitioner who was working as Head Master in Shree Kalleshwar High School, Kasba-beed, Kolhapur conducted by Shri Sadguru Shikshan Sanstha, Kolhapur i.e.respondent no. 2 herein. The petitioner was issued various chargesheets alleging that he was guilty of certain acts of misconduct. It appears that in the first two chargesheets petitioner was found innocent by the Enquiry Officer. A third chargesheet was issued in February l993 and the petitioner was put under suspension after taking prior permission from the Education Officer . Petitioner filed a writ petition being Writ Petition No. 735 of l993 challenging the suspension order dated l4.l.l993. By order dated 5.2.l993 this court directed the Education Officer to decide the whole issue afresh and pass appropriate order. By order dated

29.3.l993 the Education Officer again granted permission to put the petitioner under suspension. The respondent no.3 management issued a notice to the petitioner that the inquiry could be proceeded with on the basis of third chargesheet dated l5.2.l993. The petitioner once again approached this court in Writ Petition No. l6l3 of l993 for an order and direction directing the respondent .no. 2 not to proceed with the inquiry persuant to the chargesheet dated l5.2.l993. That writ petition was admitted and the order of suspension was stayed. On 3.2.l995 Writ Petition No. l6l3 of l993 came to be dismissed for non removal of objections.

3 As a result of dismissal of Writ Petition No. l6l3 of l993 inquiry against the petitioner was resumed and the inquiry committee submitted its report and the same was served upon the petitioner on 4.l.l996. By order dated 4.l.l996 the petitioner was served with a dismissal order based on the report of the enquiry committee. In the meanwhile the petitioner filed a civil application for restoration of Writ Petition No.l6l3 of l993 and the writ petition was restored on l8.l.l996. The petitioner also filed a separate petition being Writ Petition No. 26l of l996 challenging the

dismissal order dated 4.l.l996. This petition was admitted and dismissal order was stayed with further direction to take back the petitioner in service and pay him regular salary.

4. On 6.4.l996 a fresh charge sheet was issued to the petitioner levelling certain charges .The inquiry committee concluded the inquiry exparte and submitted report and on the basis of this report petitioner was dismissed from service vide order dated 2l.3.l997. This dismissal order was challenged by the petitioner in Writ Petition No. l984 of l987 and this court disposed of the same on 5.5.l997 permitting the petitioner to withdraw the same and to approach the School Tribunal. The petitioner accordingly filed Appeal No. 97 of l997 before the School Tribunal Kolhapur. By order dated l9.5.l997 the School Tribunal was pleased to stay the dismissal order dated 2l.3.l997 and the petitioner was continued in service. The petitioner was superannuated on 30.ll.2002.

5. The third petition being Writ Petition No. l033 of 200l is filed by the petitinoer claiming senior scale on completion of l2 years of service and also payscale as per the 5th pay commission. It is the grievance of the petitioner that he was

denied the revised pay scale only on account of pending litigation.

6. We have heard Mr. Pakale, learned counsel for the petitioner, Mr. Vijay Patil,learned counsel appearing for the respondent no. 2 and learned AGP for authorities. Mr Pakale fairly conceded that Writ Petition No. l6l3 of l993 has become infructuous as the petitioner has been superannuated. Therefore Writ Petition No. l6l3 of l993 is not pressed by Mr.Pakale.

7. So far as Writ Petition No. l033 of 200l is concerned both Mr. Pakale and Mr. Vijay Patil agreed that the issue of fixation of payscale should be referred to the Dy Director of Education for appropriate orders. By consent of the parties we direct the Dy Director to decide the claim of the petitioner for senior scale on completion of l2 years of service as well as payscale as per 5th Pay Commission and release the differential salary, if any, within a period of three months.

8. So far as Writ Petition No.26l of l996 is concerned the matter involves disputed questions of fact.The school tribunal is already seized of the Appeal No. 97 of l997 which is also directed

against the order of dismissal. Office is directed to transfer Writ Petition No.26l of l996 to the school tribunal, Kolhapur who shall treat this writ petition as an appeal and decide both the matters in accordance with law within 3 months from today.

9. There is also an issue of retiral dues of the petitioner.It appears that the 2nd respondent has not forwarded pension papers of the petitioner inspite of direction given by the Dy Director. We direct the respondent no. 2 to forthwith forward pension papers of the petitioner to the competent authority within four weeks. The respondents are directed to release provisional pension to the petitioner within 3 months from today subject to the result of the proceedings before the school tribunal . Respondent no.2 is also directed to forthwith release other dues of the petitioner including the provident fund.

l0 Petitions stand disposed of in terms of the order mentioned above.